

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,

No. 1:20-cv-01165-DAD-SKO

Plaintiff,

v.

BLACK LIVES MATTER, et al.,

Defendants.

ORDER DENYING REQUEST FOR  
EXTENSION OF TIME, ADOPTING  
FINDINGS AND RECOMMENDATIONS,  
AND DENYING PLAINTIFF'S  
APPLICATION TO PROCEED *IN FORMA  
PAUPERIS*

(Doc. Nos. 3, 4, 8)

Plaintiff Brandon Alexander Favor is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On September 15, 2020, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's application to proceed *in forma pauperis* be denied on the grounds that his application did not establish indigency under 28 U.S.C. § 1915(a) and, alternatively, that he is subject to the three strikes bar under § 1915(g). (Doc. No. 4.) Specifically, as to the latter ground, the magistrate judge identified four actions brought by plaintiff in the past that had been dismissed as a whole for failing to state a claim: (1) *Favor-El v. Rome*, Case No. 1:15-cv-01865-LJO-EPG (E.D. Cal.); (2) *Favor v. State of California*, Case No.

1 2:16-cv-02870-JGB-JEM (C.D. Cal.); (3) *Favor-El v. Rihanna, et al.*, 2:15-cv-09502-JGB-JEM  
2 (C.D. Cal.); and (4) *Favor-El v. United States of America*, Case No. 2:15-cv-01448-GEB-AC  
3 (E.D. Cal.). (*Id.*) Based upon those prior dismissals, the magistrate judge found that plaintiff is  
4 subject to the three strikes bar under 28 U.S.C. § 1915(g) and that the allegations of his complaint  
5 do not satisfy the “imminent danger of serious physical injury” exception to that bar. (*Id.*) The  
6 findings and recommendations were served on plaintiff and contained notice that any objections  
7 thereto were to be filed within twenty-one (21) days after service. (*Id.* at 4.) No objections have  
8 been filed and the time in which to do so has now passed.<sup>1</sup>

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a  
10 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the  
11 findings and recommendations are supported by the record and proper analysis.

12 Accordingly:

13 1. The findings and recommendations issued on September 15, 2020 (Doc. No. 4) are  
14 adopted in full;

15 2. In accordance with 28 U.S.C. §§ 1915(a) and (g), plaintiff’s application to proceed  
16 *in forma pauperis* (Doc. No. 3) is denied;

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19 <sup>1</sup> Rather than filing objections during the time allotted, plaintiff filed a document titled “State  
20 Relief” (Doc. No. 5) and another copy of his complaint attaching documents he has filed in other  
21 court cases (Doc. No. 6.) Although difficult to discern, neither document articulates “specific fact  
22 allegations of ongoing serious physical injury, or a pattern of misconduct evidencing the  
23 likelihood of imminent serious physical injury.” *Martin v. Shelton*, 319 F.3d 1048, 1050 (8th Cir.  
24 2003). After the expiration of the objections period, plaintiff then filed a request for an extension  
25 of seventy-two (72) days to file objections to the magistrate judge’s findings and  
26 recommendations. (Doc. No. 8.) The basis for the requested extension of time is not discernable  
27 from plaintiff’s request, but, based on the attachments thereto, it appears to be plaintiff’s asserted  
28 need for access to the prison library, which had been denied to him by prison officials because the  
objection period had already expired. (*See id.* at 3–4.) Plaintiff’s request does not show that his  
failure to seek an extension prior to the expiration of the objections period was due to “excusable  
neglect,” as is required under Rule 6(b) of the Federal Rules of Civil Procedure. The request also  
does not demonstrate why legal research is necessary, given that the magistrate judge’s findings  
and recommendations set forth the clear legal standards by which plaintiff’s *in forma pauperis*  
application must be evaluated. Accordingly, plaintiff’s untimely request for an extension of time  
to file objections (Doc. No. 8) is denied.

3. Within fourteen (14) days following service of this order, plaintiff shall pay the \$400.00 filing fee in full to proceed with this action;
4. Failure to pay the required filing fee in full within the specified time will result in the dismissal of this case; and
5. The matter is referred back to the magistrate judge for proceedings consistent with this order.

IT IS SO ORDERED.

Dated: **November 20, 2020**

Dale A. Lloyd  
UNITED STATES DISTRICT JUDGE